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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/670,550

09/25/2003

Rahul L. Shah

5681-69700

5494

58467

7590

04/13/2009

MHKKG/SUN

P.O. BOX 398

AUSTIN, TX 78767

EXAMINER

JOO, JOSHUA

ART UNIT

PAPER NUMBER

2454

MAIL DATE

DELIVERY MODE

04/13/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/670,550	Applicant(s) SHAH, RAHUL L.	
	Examiner JOSHUA JOO	Art Unit 2454	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01/15/09.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

This Office action is in response to Applicant's communication filed on 01/15/2009.

Claims 1-42 are pending for examination.

Response to Arguments

Applicant's arguments filed 01/15/2009 have been fully considered but they are not persuasive.

Applicant argued that:

(1) Horvitz's context states are not presence states that are specific to an instant messenger client. There is no evidence in Horvitz that demonstrates that a user's manipulation of these variables within the context manager system results in a change in a presence state that is specific to an instant messenger client. Horvitz omits any manipulation of presence states of an instant messenger client.

In response, Examiner respectfully disagrees with Applicant's argument. According to Horvitz, a client is able to communicate via instant messages and thus the client is considered as an instant messenger client. The state on the context system is representative of the particular client and adapted for the particular client. The state and transitioning states are specific to the client, which is an instant messenger client. In addition, the manipulation of the variables results in a change in a presence state and the presence state applies to the particular client.

Furthermore, at a certain state, a type of communication method is preferred over other methods. The state corresponds to a specific communication method and an application enabling the communication method, which includes instant messaging.

Claim Rejections - 35 USC § 112

Rejections of claims under 35 USC § 112 second paragraph is withdrawn in view of Applicant's amendments.

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Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 15, and 29 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 8, 20, 27, 39, and 46 of copending Application No. 10/670849 (‘849 hereinafter), in view of Horvitz, US Publication #2008/0104517 (Horvitz hereinafter).

Instant Application Claim 1	Copending application #10/670849 Claim 1
A method comprising: detecting a computer system activity level indicative of activity of said computer system;	A method comprising: receiving an instant messaging operation directed to a given user, wherein said given user is not offline, and wherein said instant messaging operation is associated with a given presence state of an instant messenger;
determining whether said activity level exceeds an activity threshold in response to said detecting; and	determining a current presence state of said instant messenger in response to receiving said instant messaging operation, wherein <u>said current presence state corresponds to said given user</u>
	In response to determining that said given presence state matches said current presence state, processing said instant messaging operation.
	Claim 8 The method as recited in claim 1, further comprising:

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transitioning a presence state specific to an instant messenger client to a busy state in response to determining that said activity level exceeds said activity threshold, wherein said presence state corresponds to a given user	<u>detecting a computer system activity level indicative of computer system activity</u>
	determining whether <u>said activity level exceeds an activity threshold in response to said detecting; and</u>
	<u>transitioning said current presence state of said instant messenger client to a busy state in response to determining that said activity level exceeds said activity threshold, wherein said presence state corresponds to a given user.</u>

Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1 and 8 of the copending application disclose substantial features of claim 1 of the instant application except the feature of executing an instant messaging client on a computer system. However, Horvitz teaches the feature of executing an instant messaging client on a computer system (Paragraph 0096). It would have been to obvious to one of ordinary in the art to combine the copending application '849 with Horvitz to execute an instant messaging client on a computer system, which would enable real time communication between users and allowing communication based on preferences as suggested by Horvitz.

Claims 15 and 29 are rejected for the same reasons as claim 1. Claims 20, 27, 39, and 46 of the copending application '849, which comprise similar features of claims 1 and 8, disclose most of the features claims 15 and 29 of the instant application, and Horvitz teaches the feature of an instant messenger client executable on a computer system.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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Claims 1, 15, and 29 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 8, 11, 18, 21, and 28 of copending Application No. 10/670549 ('549 hereinafter), in view of Horvitz.

Instant Application Claim 1	Copending application #10/670549 Claim 8
A method comprising: detecting a computer system activity level indicative of activity of said computer system;	The method as recited in claim 1, further comprising:
determining whether said activity level exceeds an activity threshold in response to said detecting;	<u>detecting a computer system activity level indicative of computer system activity</u> <u>determining whether said activity level exceeds an activity threshold in response to said detecting; and</u>
transitioning a presence state specific to said instant messenger client to a busy state in response to determining that said activity level exceeds said activity threshold, wherein said presence state corresponds to a given user	<u>transitioning a presence state of said instant messenger client to a busy state in response to determining that said activity level exceeds said activity threshold, wherein said presence state corresponds to a given user.</u>

Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1 and 8 of the copending application '549 disclose substantial features of claim 1 of the instant application except the feature of executing an instant messaging client on a computer system. However, Horvitz teaches the feature of executing an instant messaging client on a computer system (Paragraph 0096). It would have been to obvious to one of ordinary in the art to combine the copending application '549 with Horvitz to execute an instant messaging client on a computer system, which would enable real time communication between users and allowing communication based on preferences as suggested by Horvitz.

Claims 15 and 29 are rejected for the same reasons as claim 1. Claims 11, 18, 21, and 28 of the copending application '549, which comprise similar features of claims 1 and 8, disclose most of the features claims 15 and 29 of the instant application, and Horvitz teaches the feature of an instant messenger client executable on a computer system.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6, 8-9, 12, 15-17, 20, 22-23, 26, 29-31, 34, 36-37, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz, in view Jackson et al. US Publication #2002/0152305 (Jackson hereinafter).

As per claim 1, Horvitz teaches substantially the invention as claimed including a method comprising:

executing an instant messenger client on a computer system (Paragraph 0069. Interface. Paragraph 0096. Computer modalities includes instant messaging.);

detecting a computer system activity level indicative of said computer system (Paragraphs 0063; 0091. Typing or using application.);

determining whether said activity level meets an activity threshold in response to said detecting (Paragraph 0063. Determine that context setting is true.); and

transitioning a presence state specific to said instant message client to a busy state in response to determining that said activity level meets said activity threshold, wherein said presence state corresponds to a given user (Paragraphs 0063; 0091. Employ Busy state based on activity.).

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Horvitz teaches of determining whether an activity level meets an activity threshold but not specifically exceeding an activity threshold.

Jackson teaches of determining whether an activity level exceeds an activity threshold (Paragraph 0447; 0452. Monitor resource utilization that may include memory utilization, CPU utilization. Detect resource utilization exceeding a threshold.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to determine whether an activity level exceeds an activity threshold as taught by Jackson. The motivation for the suggested combination is that Jackson's teachings of determining whether an activity exceeds an activity threshold would allow a system to further define a user context while obtaining a similar result of using a condition of a computing system to define a state of busy.

As per claim 15, Horvitz teaches substantially the invention as claimed including a computer-accessible storage medium comprising:

executing an instant messenger client on a computer system (Paragraph 0069. Interface. Paragraph 0096. Computer modalities includes instant messaging.);

detecting a computer system activity level indicative of said computer system (Paragraphs 0063; 0091. Typing or using application.);

determining whether said activity level meets an activity threshold in response to said detecting (Paragraph 0063. Determine that context setting is true.); and

transitioning a presence state specific to said instant message client to a busy state in response to determining that said activity level meets said activity threshold, wherein said presence state corresponds to a given user (Paragraphs 0063; 0091. Employ Busy state based on activity.).

Horvitz teaches of determining whether an activity level meets an activity threshold but not specifically exceeding an activity threshold.

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Jackson teaches of determining whether an activity level exceeds an activity threshold (Paragraph 0447; 0452. Monitor resource utilization that may include memory utilization, CPU utilization. Detect resource utilization exceeding a threshold.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to determine whether an activity level exceeds an activity threshold as taught by Jackson. The motivation for the suggested combination is that Jackson's teachings of determining whether an activity exceeds an activity threshold would allow a system to further define a user context while obtaining a similar result of using a condition of a computing system to define a state of busy.

As per claim 29, Horvitz teaches substantially the invention as claimed including a system, comprising:

a computer system (Paragraphs 0093; 0096. Computer.); and

an instant messenger client software module configured to execute on said computer system (Fig. 18-19. Paragraph 0069. Interface for setting IM preference.);

wherein said instant messenger software module is further configured to:

detect a computer system activity level indicative of activity of said computer system (Paragraphs 0063; 0091. Typing or using application.);

determining whether said activity level meets an activity threshold in response to said detection (Paragraph 0063. Determine that context setting is true.); and

transition a presence state specific to an instant messenger client to a busy state in response to said determination that said activity level meets said activity threshold, wherein said presence state corresponds to a given user (Paragraphs 0063; 0091. Employ Busy state based on activity.).

Horvitz teaches of determining whether an activity level meets an activity threshold but not specifically exceeding an activity threshold.

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Jackson teaches of determining whether an activity level exceeds an activity threshold (Paragraph 0447; 0452. Monitor resource utilization that may include memory utilization, CPU utilization. Detect resource utilization exceeding a threshold.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to determine whether an activity level exceeds an activity threshold as taught by Jackson. The motivation for the suggested combination is that Jackson's teachings of determining whether an activity exceeds an activity threshold would allow a system to further define a user context while obtaining a similar result of using a condition of a computing system to define a state of busy.

As per claims 2, 16, and 30, Horvitz teaches the invention as recited in claims 1, 15, and 29 further teach comprising:

determining whether said activity level does not meet said activity threshold subsequent to monitoring said presence state to said busy state (Paragraph 0063. Context setting is defined to be false, the context setting including activity.); and

transitioning said presence state of said instant messenger to an online state in response to determining that said level of computer system activity does not meet said activity threshold (Paragraph 0063. If context setting is true, then busy state is true. Paragraph 0097. Available, e.g. no longer busy.) .

Horvitz does not teach of determining whether said activity level does not meet said activity threshold but not specifically exceeding an activity threshold.

Jackson teaches of determining whether an activity level does not exceed an activity threshold (Paragraph 0447; 0452).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to determine whether an activity level does not exceed an activity threshold.

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The motivation for the suggested combination is that Jackson's teachings of determining whether an activity exceeds an activity threshold would obtain a similar and predictable result of using a condition of a computing system to further determine a state of busy.

As per claims 3, 17, and 31, Horvitz teaches the invention as recited in claims 1, 15, and 29 wherein said activity of said computer system comprises keyboard activity (fig. 46; Paragraph 0091. Typing.).

As per claim 6, 20, and 34, Horvitz does not specifically teach the invention as recited in claims 1, 15, and 29, wherein said activity of said computer system comprises processor utilization.

Jackson teaches monitoring system activity comprising of processor utilization (Paragraphs 0447; 0452).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the system activity to comprise processor utilization. The motivation for the suggested combination is that Jackson's teachings would provide an improvement to Horvitz's teachings by enabling setting of a busy state based on the activity level of Jackson and allowing a user to further define a state of busy.

As per claims 8, 22, and 36, Horvitz teaches the invention as recited in claims 1, 15, and 29, wherein said activity of said computer system is configurable by a user from a plurality of types of computer system activity (fig. 46-48; paragraph 0091. Select system activity.).

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As per claims 9, 23, and 37, Horvitz teaches teach the invention as recited in claims 1, 15, and 29, wherein said activity threshold is configurable by a user (Paragraph 0063. Busy level is defined by one or more selected context setting.).

As per claims 12, 26, and 40, Horvitz teaches the method invention as recited in claims 1, 15, and 29, further comprising:

storing schedule information corresponding to a given user, wherein said schedule information is indicative of an activity status of said given user at a given time (Paragraph 0063. Calendar setting indicates status. Paragraph 0153. Calendar may include status and availability.);
querying said schedule information; and if a current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user (Paragraph 0063. Set state as Busy.).

Claims 4, 18, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz and Jackson, in view of Barsness, US Patent #7,337,210 (Barsness hereinafter).

As per claim 4, 18, and 32, Horvitz does not specifically teach the invention as recited in claims 1, 15, and 29, wherein said activity of said computer system comprises mouse activity.

Barsness teaches of detecting computer system activity comprising mouse activity (col. 11, lines 19-21).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the computer system activity as taught by Horvitz to comprise mouse

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activity as taught by Barsness. The motivation for the suggested combination is that Barsness' teachings would provide an improvement to the suggested system by expanding the detection of activity to include an additional input and thus allowing a user to further define a state of busy.

Claims 5, 19, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz and Jackson, in view of Canfield et al. US Publication #2008/0092063 (Canfield hereinafter).

As per claims 5, 19, and 33, Horvitz does not specifically teach the invention as recited in claims 1, 15, and 29, wherein said activity of said computer system comprises one or more simultaneous instant messenger sessions.

Canfield teaches of detecting computer system activity comprising one or more simultaneous instant messenger sessions (Paragraph 0049)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the computer system activity as taught by Horvitz to include one or more simultaneous instant messenger sessions. The motivation for the suggested combination is that Canfield's teachings would provide an improvement to the suggested system by expanding the detection of activity to include an additional detectable activity and thus allowing a user to further define a state of busy.

Claims 7, 21, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz and Jackson, in view of Burnley et al. US Publication #2007/0061450 (Burnley hereinafter).

As per claims 7, 21, and 35, Horvitz does not specifically teach the method, computer-accessible storage medium, and the system as recited in claims 6, 20, and 34, wherein said processor utilization further comprises a foreground processor utilization corresponding to activity of foreground computer

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system processes and a background processor utilization corresponding to activity of background computer system processes, and wherein said activity threshold further comprises a foreground process threshold corresponding to said foreground processor utilization.

Burnley teaches a system for tracking and collecting utilization data, wherein the system tracks foreground processor utilization corresponding to activity of foreground computer system processes and a background processor utilization corresponding to activity of background computer system processes, and wherein said activity threshold further comprises a foreground process threshold corresponding to said foreground processor utilization (Paragraphs 0077-0078. Track each opened application and active processes. Paragraphs 0051; 0056. Determine when application is in focus and actively engaging in focused application.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for system to track foreground processor utilization corresponding to activity of foreground computer system processes and a background processor utilization corresponding to activity of background computer system processes, and wherein said activity threshold further comprises a foreground process threshold corresponding to said foreground processor utilization. The motivation for the suggested combination is that Burnley's teachings would provide an improvement to the suggested system by allowing determination of client activity to determine status based on different factors, including focused and unfocused application utilizations.

Claims 10, 24, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz and Jackson, in view of Matsumoto et al. US Publication #2001/0025314 (Matsumoto hereinafter).

As per claims 10, 24, and 38, Horvitz does not specifically teach the invention as recited in claims 1, 15, and 29, wherein said activity threshold further comprises a threshold time and wherein determining

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whether said computer system activity level exceeds an activity threshold further comprises determining whether a duration of said computer system activity level exceeds said threshold time.

Matsumoto teaches a system for determining presence state, wherein the system determines when active duration of a running application exceeds a predetermined time (Paragraph 0064).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the activity threshold to comprise a threshold time and to determine whether active duration of a running application exceeds a predetermined time. The motivation for the suggested combination is that Matsumoto's teachings would provide an improvement to the suggested system by providing an additional monitoring condition, which enables a user to further to define a state of busy.

Claims 11, 25, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz, Jackson, and Matsumoto, in view of Barsness.

As per claims 11, 25, and 39, Horvitz does not specifically teach the invention as recited in claims 10, 24, and 38, wherein said threshold time is configurable by a user (col. 9, lines 50-59. Profile including activity time can be edited by user.).

Barsness teaches of using a threshold time to set a user status, wherein the threshold time is configurable by a user (col. 9, lines 50-59. Profile including activity time can be edited by user.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the threshold time to be configurable by a user. The motivation for the suggested combination is that Barsness' teachings would provide an improvement to the suggested system by providing an additional option to allow a user customize a state of busy.

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Claims 13-14, 27-28, 41, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz and Jackson, in view of Horvitz, US Publication #2004/0030753 (Horvitz '753 hereinafter).

As per claims 13, 27, and 41, the invention as recited in claims 1, 15, and 29, further comprising: receiving an instant messaging operation directed to a given user, wherein said given user is not offline; determining said presence state of said instant messenger in response to receiving said instant messaging operation; and selectively processing said instant messaging operation dependent upon said presence state in response to said determining (Paragraphs 0047; 0069. Queue message. Deliver message when user is free).

Horvitz '753 teaches of receiving an instant messaging operation directed to a given user, wherein said given user is not offline; determining said presence state of said instant messenger in response to receiving said instant messaging operation; and selectively processing said instant messaging operation dependent upon said presence state in response to said determining (Paragraphs 0047; 0069. Queue message. Deliver message when user is free).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to receive an instant messaging operation directed to a given user, wherein said given user is not offline; determine said presence state of said instant messenger in response to receiving said instant messaging operation; and selectively process said instant messaging operation dependent upon said presence state in response to said determining. The motivation for the suggested combination is that Horvitz '753's teachings would provide an improvement to the suggested by mitigated disruptiveness of messages as suggested by Horvitz '753.

As per claims 14, 28, and 42, Horvitz does not specifically teach the invention as recited in claims 1, 15, and 42, further comprising: storing an instant messaging operation associated with a given presence

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state of said instant messenger, wherein said given presence state corresponds to a given user; detecting a transition to said given presence state subsequent to said storing; and performing said instant messaging operation in response to said detecting.

Horvitz '753 teaches of storing an instant messaging operation associated with a given presence state of a instant messenger, wherein said given presence state corresponds to a given user; detecting a transition to said given presence state subsequent to said storing; and performing said instant messaging operation in response to said detecting (Paragraph 0047. During busy state, messages are queued. Message is not delivered until available free state).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to store an instant messaging operation associated with a given presence state of a instant messenger, wherein said given presence state corresponds to a given user; detect a transition to said given presence state subsequent to said storing; and perform said instant messaging operation in response to said detecting. The motivation for the suggested combination is that Horvitz '753's teachings would provide an improvement to the suggested by mitigated disruptiveness of messages as suggested by Horvitz '753.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Joo whose telephone number is 571 272-3966. The examiner can normally be reached on Monday to Friday 7 to 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571 272-1915. The fax phone number for the organization where this application or proceeding is assigned 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/J. J./
Examiner, Art Unit 2454

/Nathan J. Flynn/
Supervisory Patent Examiner, Art Unit 2454